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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,402	11/20/2003	Jacqui Everett	EVERETT 201-KFM	9741

7590 11/29/2004

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EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT PAPER NUMBER

3644

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,402

Applicant(s)

EVERETT, JACQUI

Examiner

Yvonne R. Abbott

Art Unit

3644

*Handwritten signature*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8-15 and 17-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-13,17,18 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 14,15 and 19-30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1 and 31 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 4, 8-13, 17, 18, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acoff (5,769,030). Acoff discloses an animal training and conditioning apparatus capable of use by an animal such as a dog, which comprises a first web (22 or 30) of flexible material adapted to be affixed to the body of the animal in the region adjacent to at least one of the pair of front and rear legs, the web comprising means (38 or 46) which includes a weight pocket for holding at least one weight; at least one strap (56) connected to the web and adapted to retain the web on the animal; and a weight (36) which can be metal ingots, or as disclosed in col. 5, lines 11-15, pebbles, sand, small stones, or coins can be held within the pockets (46) the web; wherein the web is made of a fabric or canvas material; wherein the web is adapted to at least partially cover the chest of the animal or extend along the lower loin area of the animal (depending upon the size or length of the animal, i.e. for a larger animal, the web (30) may fit on the chest region, whereas on a smaller animal, it may

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fit on the loin), and the at least one strap is adapted to retain the web on the chest or loin, respectively, and wherein the holding means is adapted to hold the weight at a point between the front legs (again, this varies depending upon how the apparatus fits on the specific animal); wherein the web is substantially rectangular in shape; wherein at least one strap includes at least two straps, a first strap (14) extending over the neck of the animal in front of the pair of front legs, and second and third straps (56) extending over the body of the animal behind the front legs; wherein the weight is removable and replaceable on the holding means, and wherein the holding means includes means for holding two weights, one on each side of the animal's body (as on upper portion 28 or lower portion 30). Acoff further discloses that the removable weights are located in the chest region of the dog substantially between the pair of front legs, it is disclosed that "a plurality of pockets 46 may be disposed on animal training and conditioning apparatus 12 in strategic locations to further enhance the training of specific muscle groups of dog 10. For example, *pockets 46 may be disposed upon chest strap 22 to allow for progressive resistance training of front legs 32 and the withers region of dog 10.* Similarly, pockets 46 may be disposed upon upper portion 28 or lower portion 30 of weighted vest 24 to provide for progressive resistance training of hind legs 18 of dog 10" (column 5, lines 1-9). Acoff discloses a method of exercising or training a dog comprising affixing the above apparatus on an animal; wherein the animal is allowed to move while carrying a weight. With respect to Applicant's argument that Acoff does not suggest that the pockets (46) are arranged between the two front legs of the dog, it is implied that the chest strap will be positioned to be

disposed between the front legs. If Applicant's argument relies on the notion that Akoff's disclosure permits the weights to be disposed anywhere along the chest strap, including some upper region not between the front legs, it does not preclude the weights from being along the strap between the front legs; it should also be noted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the weights be between the front legs since Akoff discloses that such disposition allows for training of the front legs. Further, it should be pointed out that in an effort to distinguish over prior art, Applicant's claim of criticality of having the weights be on the animal's chest between its front legs by stating that this position is "the only proper place for retaining additional weight on an animal for exercise purposes" (Remarks, page 12) seems to contradict Applicant's own disclosure (Figure 5, claims 17, 20, 26, 29 and 30, etc.).

2. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acoff in view of Wesseldine (4,577,591). Although Acoff shows a dog training apparatus having a web carrying a weight, wherein the web is substantially rectangular and is capable of extending between the legs, it is not shown that the web has a trapezoidal portion which is reduced in width. Wesseldine teaches a protective device for dogs comprising a web attached to the animal by straps wherein the web has a trapezoidal, reduced width portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that apparatus of Acoff be shaped as taught by Wesseldine in order to provide a more comfortable and body conforming shape for the animal, and to cover more surface area.

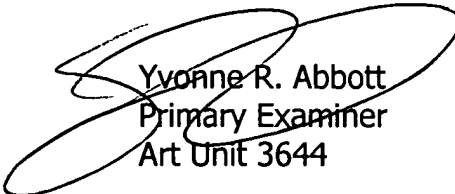
***Allowable Subject Matter***

3. Claims 14, 15 and 19-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (703)305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Yvonne R. Abbott  
Primary Examiner  
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